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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,994	08/30/2001	Laurie J. Brown	BrownLaurie-010614	2433
27119	7590	10/06/2003	EXAMINER	
ALBERT W. WATKINS 30844 NE 1ST AVENUE ST. JOSEPH, MN 56374			LEE, DIANE I	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/944,994	Applicant(s) BROWN, LAURIE J.	
	Examiner D. I. Lee	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 14 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt is acknowledged of the Amendment filed 07 July 2003. Claims 11-13 have been canceled; no claims have been amended; and no claims have been newly added. Currently, claims 1-10 and 14-20 are remain pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradbury et al. [US 4,929,818-referred as Bradbury, cited by the applicant] in view of Cahill [US 4,285,426].**

Re claim 1: Bradbury discloses an apparatus and a method for vending a containerized liquid product to a vendee utilizing an original container 10 for the liquid product, wherein the original containers have been packaged with the original fluid product therein (see the abstract and col. 4, lines 51+). After the original container has been emptied of the liquid product, then vending multiple refilling of the liquid product in the original container from a single dispensing station (i.e., dispensing the fluid product into the original container and refilling the original container). The container having machine-readable indicia 24 thereon indicatives of the liquid product and the original sales prices of the container as filled with the liquid product prior to the first refilling thereof (see the abstract; col. 6, lines 45+; and figure 1). This obviously teaches the steps of labeling the original container with machine-readable indicia 24 indicative of the price of the fluid product. For each refilling of the container, the vendee will

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only be charged for the product, and not for the container. Therefore, the actual price charged to the vendee for the refilled container equals the original sales price (i.e., the price of the container combined with the price of refilled liquid contained therein prior to the first refilling thereof) less the value of the discount price (i.e., the redeeming the price of the container) (see col. 4, lines 59+). Bradbury shows in figure 5 that when the container being positioned within a chamber, a vertically-oriented liquid filling pipe 80 having a discharge port at the bottom thereof and positioned over and in registered with a filling opening 19 in the original container 10 (see col. 8, lines 50). The filling pipe being inserted into the container through the opening until the outlet is brought to a filling position with respect to the container then the container is filled with a preselected volume of the liquid product (see col. 8, lines 50+). Bradbury further anticipates the system having an audible or visual signal to indicate when the container has been filled and the fluid passing through the filling spout has been stopped which obviously teaches that the system having a means for sensing the complete filling of the container and for terminating the transfer fluid (see col. 11, lines 45+).

Although Bradbury teaches the method of charging the refill vendee a reduced price (i.e., charging only the price of the refilled product and not the container by modifying the bar code on the container to indicate the container has been refilled), he does not teach the system having a reading means in the chamber such that when the returned container is positioned in the chamber, the indicia on the container is oriented to be in register with the reading means and dispensing to the refill vendee a discount coupon to be presented to the vendor's checkout together with the refilled container.

Cahill discloses a redemption system 10 having a chamber 18, a scanner 118 detecting the UPC code on a returned container (i.e., the container is positioned within the chamber with the UPC code oriented to be in registered with the scanner) (see the abstract, col. 7, lines 59+, and figure 15). Upon the system recognizing detected data, the detected information is processed at the controller 160, and the

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system issues a cash refund or a redeemable coupon for the face value of the returned containers to the consumer (see col. 9, lines 44+; col. 10, lines 37+; and figure 15).

In view of Cahill's teachings, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the means to read the indicia on the container (i.e., from the UPC code thereon) to initiate the operation of identifying the value of the container, and providing a redeemable coupon for the face value of the container in the system of Bradbury in order to provide an automated product dispensing system having an inexpensive redeeming process without alteration of the bar code on the container by issuing the coupon which is equivalent to the cost of the container at the checkout station.

Note: The examiner recognizes that the intended purpose of Cahill's system is for "non-refillable" container. However, Cahill teaches more importantly recognizing the container from the UPC code on the returned container and retrieving the detected information from the control system 160 and printing a credit slip redeemable for the face value of the returned container, e.g., printing a coupon that is redeemable for the face value of the returned container.

Due to the fact that Bradbury teaches the process of backing out the cost of the container at the checkout process so that the customer is only charged for the refilled product and not the container, and the examiner only relying on the Cahill's teaching of reading an indicia code from the container and providing a coupon for the value of a returned container; it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to substitute the process of modifying the code on the container, as taught by Bradbury, with the process of printing the coupon that is redeemable for the face value of the returned container at the check out process, as taught by Cahill, in order for the customer to redeem the coupon so as to be charged for the refilled product only and not the container. Such modification would have eliminated the bar code altering operation in the system of Bradbury and

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thus would have eliminated a stimulus response indicator and the stimulus-sensitive material in the system of Bradbury, and therefore, would have provided simplified the structure

Re claims 3: Bradbury shows the apparatus having a vertically oriented liquid filling pipe 80 having an outlet, being positioned over a filling opening 19 in the original container, and connected to a supply of the liquid product (see col. 8, lines 50+ and figure 5). The filling pipe being vertically movable with respect to the original container and being sized to freely enter the filling opening (i.e., the spout 80 is inserted downwardly into the open neck of the container 10). The filling pipe being inserted into the container through the opening until the outlet is brought to a filling position with respect to the container, and following, which the container is filled with a preselected volume of the liquid product (see col. 8, lines 50+ and col. 11, lines 45+).

Bradbury as modified by Cahill is silent with respect to the filling pipe inserted into the container through the opening until the outlet is adjacent the bottom of the container.

However, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to modify the vertical filling position by further lowering the outlet pipe close to the lower surface to the container or adjacent to the bottom of the container in order to prevent any liquid splashing out of the container through its opening and reduce any bubbling effect within the container while refilling the product which may cause the liquid to over flow.

4. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradbury as modified by Cahill as applied to claim 1 above, and further in view of Matthias [US 6,151,587]. The teachings of Bradbury as modified by Cahill have been discussed above.

Although Bradbury as modified by Cahill fails to teach the system dispensing an additional coupons and a graphic display of information at the time of dispensing the discount coupon.

Matthias teaches a coupon dispenser for generating coupons (see the abstract), the system having a graphic display area 16 for a customer can identifies a particular good or product for which a coupon can be issued, and two coupon printers 38, 40 coupled to the processor for printing the coupons with a graphic display of information (col. 1, lines 40+; col. 2, lines 23+, lines 55+; and figures 1, 4).

In view of Matthias' teaching, it would have been an obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the system that advertises the products by displaying the products and issuing/printing the coupons in the teachings of Bradbury as modified by Cahill in order to provide coupons for additional products of the customer's interest (i.e., at the time of dispensing the discount coupon for the returned container) which can utilize while the customer in the store. Such modification would have motivated the customer to purchase additional products while she or he is in the store and thus it would increase the product sales in the store.

5. **Claims 2 and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradbury as modified by Cahill as applied to claim 1 above, and further in view of Stefan [JP 06-277,231].** The teachings of Bradbury as modified by Cahill have been discussed above.

Re claims 2 and 6-7: Bradbury as modified by Cahill fails to teach the system selectively vending a plurality of containerized liquid products respectively into an original refillable container from a single dispensing station and process of each refilling a selected original refillable container with a matching liquid product.

Stefan discloses a device for dispensing and mixing of multi-component material (see the abstract), the system having a plurality of dispensers (9-11) each storing powdery material compositions and liquid ingredients different in color and composition composed of dental cements and alloys (see the abstract and figure 1). Stefan shows a plurality of containerized liquid products respectively connectable to a mixing container 5 to blend the plurality of the products and dispenses the mixture from a single

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dispensing station 5, 6 based on the matching liquid product controlled by input signal 13 from the computer 4 (see the abstract and figure 1).

In view of Stefan's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the system selectively vending a plurality of containerized liquid products respectively into a single dispensing station based on matching liquid product information controlled by the input signal in the system of Bradbury as modified by Cahill in order to provide an apparatus that vends a plurality of products each having a different combination of mixed products (i.e., a mixture of a plurality of products) based on an input signal. Such modification would have provided Bradbury as modified by Cahill with a dispensing system that dispenses multiple products, therefore, provide a greater choice of dispensing items to the customers.

Re claims 8-10: Although Stefan teaches the process of dispensing and mixing multi-components (i.e., plurality of available products) and liquid ingredients different in color and composition; Bradbury as modified by Cahill and Stefan fails to teach the step of polling to dispense optional ingredients that are selective from the group of aromatic additives, flavorings, nutritional supplements and colorants, or a plurality of available scents.

However, it would have been obvious extension to an artisan of ordinary skill in the art at the time the invention was made to further provide an additional selection function to the customer by providing additional known available products, i.e., any additional material components and liquid ingredients that is appropriate to combined or mixed whether they are different colors, scents, or a plurality of available scents, and etc. , in order to increase and maximized the customer's desired selection therefore, customizing the product that tailor to customer's desire.

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6. **Claims 14 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradbury in view of Hovakimian [US 5,466,919].** The teachings of Bradbury have been discussed above.

Bradbury further teaches the method of distributing merchandises (i.e., the empty container) having the label of a product 20 to the customer. The label of the product for merchandises having the unique machine-readable code 24 identifying the price of the merchandise with the product container. He teaches the steps of reading the machine-readable code, filling the labeled product container, and compensating the customer responsive to the reading step (i.e., paying only the refilled product and not cost of the container at the checkout process) (see col. 2, lines 49+ for example).

Bradbury does not teach the customer being a member of the organization and the step of generating a unique machine-readable code for the organization.

Hovakimian discloses a method to provide an automatic contribution to a charity. The customer having a card to make a purchase transaction is a member of the charitable organization. The card is labeled to indicate a selected charity to receive a donation. When making a transaction, the system read the unique machine-readable code 16 from the card indicating a selected charity to receive a donation.

In Hovakimian's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate an automatic contribution method in the transaction operation by including an unique machine-readable code for the charitable organization on the label of the product container to the indicate a selected charity to receive a donation so that when the customer makes a transaction, a selected charitable organization would automatically receive a percentage of the transaction as a donation.

Allowable Subject Matter

7. **Claim 15 is objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

Bradbury, as modified by Cahill, Stefan, and Hovakimian fails to teach the specific steps of providing the labeled product contain to a contact within the organization and disbursing the labeled product container from the contact to the organization member when distributing the labeled product container, as set forth in the claim.

Response to Arguments

9. Applicant's arguments filed 07 July 2003 have been fully considered but they are not persuasive.

10. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Applicant's method uses only a standard container with the standard INDICIA and the Bradbury's method requires a special container comprising a special indicium, see page 7, lines 8+, and the customer of Bradbury does not have any visual or hands on experience, e.g., customer receiving any signal as to whether or not a credit will be provided for the empty container, see page 7, lines 17+) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The fact that claims recite "*a container*" and "*machine-readable indicia*", the examiner has not considered the type of container whether it is a special container or a standard. Also, the examiner would like to point out the applicant remark that "*Bradbury and applicant both utilizes a container with a machine-readable*

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INDICIA" (see page 7, lines 7-9), and "*Bradbury method requires a standard bar code*" (see page 7, lines 11), thus Bradbury clearly teaches the claimed container and INDICIA.

11. In response to applicant's argument with respect to issuing a coupon to the customer on Response page 8, lines 2+, the Examiner believes that the Applicant misinterprets the claim rejection. The examiner relied on Bradbury for the teaching of an apparatus and a method for vending a liquid product to an original container 10. Thee original containers have been packaged with the original fluid product therein including a label with machine-readable indicia 24 indicative of both the price of the liquid product and the original sales prices of the container (see the abstract and col. 4, lines 51+). After the original container has been emptied of the liquid product, then vending multiple refilling of the liquid product in the original container from a single dispensing station (i.e., refilling the original container by dispensing the fluid product into the original container). For each refilling of the container, the vendee will only be charged for the product, and not for the container, thus, the actual price charged to the vendee for the refilled container equals the original sales price (i.e., the price of the container combined with the price of refilled liquid contained therein prior to the first refilling thereof) less the value of the discount price (i.e., the redeeming the price of the container) (see col. 4, lines 59+). Bradbury also shows that a vertically-oriented liquid filling pipe 80 having a discharge port at the bottom is registered with a filling opening 19 of the original container 10 when the container is positioned within a chamber, (see col. 8, lines 50). Bradbury further anticipates the system having an audible or visual signal to indicate when the container has been filled and the fluid passing through the filling spout has been stopped which obviously teaches that the system having a means for sensing the complete filling of the container and for terminating the transfer fluid (see col. 11, lines 45+). Although Bradbury teaches the method of charging the refill vendee a reduced price (i.e., charging only the price of the refilled product and not the container by modifying the bar code on the container to indicate the container has been refilled), he does not teach the system having a reading means in the chamber such that when the returned container is positioned in the chamber, the

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indicia on the container is oriented to be in register with the reading means and dispensing to the refill vendee a discount coupon to be presented to the vendor's checkout together with the refilled container. The examiner relied Cahill reference in the rejection for teaching lacked in Bradbury, i.e., the teaching of recognizing from the bar code on a container for the purpose of printing a redeemable coupon for the face value of the container. Cahill teaches a redemption system 10 having a chamber 18, a scanner 118 detecting the UPC code on a returned container (i.e., the container is positioned within the chamber with the UPC code oriented to be in registered with the scanner) (see the abstract, col. 7, lines 59+, and figure 15). Upon the system recognizing detected data, the detected information is processed at the controller 160, and the system issues a cash refund or a redeemable coupon for the face value of the returned containers to the consumer (see col. 9, lines 44+; col. 10, lines 37+; and figure 15). Therefore, the Applicant's argument on this point is not persuasive.

12. In response to applicant's argument that the examiner's conclusion of obviousness is very much a classic example of using applicant's teaching as a blue print or road map for structuring a rejection by gutting most of Bradbury's teaching and modifying the residual skeleton of Bradbury with a dramatically modified Cahill on Response page 9, line 27-page 12, line 10, the Examiner respectfully disagrees. It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In contrary to applicant's argument, the printing and providing a redeemable coupon to a customer so that customer can back out a portion of the original cost of the product at the checkout is notoriously old and well-known in the transaction art as evidenced by the O'Brien et al [US 5,832,457] and/or Von Kohorn [US 5,368,129] for example. Bradbury teaches a method of altering of the bar code on the container for the same purpose, i.e., altering the bar code on the

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container so that altered bar code would result backing out the cost of the container at the checkout.

Therefore, in view of Cahill's teaching, providing a notoriously old and well-known redeemable coupon, as taught by Cahill, in the teaching of Bradbury would have been an obvious combination to an artisan of ordinary skill in the art at the time the invention for simplifying the structure of the vending machine.

13. In response to applicant argument with respect to Matthias that has no teaching or suggestion directly applicable to modify or strengthen Bradbury or Cahill on Response 12, lines 11+, the examine respectfully disagrees. Incorporating the system that advertises the products by displaying the products and issuing/printing the coupons, as taught by Matthias, in the teachings of Bradbury as modified by Cahill, would have provided coupons to the customer. Therefore, the customer can redeem the addition coupons to receive greater discount for additional products of the customer's interest. Such modification would have motivated the customer to purchase additional products while she or he is in the store and thus it would increase the product sales in the store.

14. In response to applicant argument with respect to Stefan that there is nothing in Stefan which can breath "life" into the failed combination of Bradbury and Cahill on Response page 12, lines 14+, the examine respectfully disagrees. Incorporating the system selectively vending a plurality of containerized liquid products respectively into a single dispensing station based on matching liquid product information controlled by the input signal, as taught by Stefan, in the system of Bradbury as modified by Cahill in order to provide an apparatus that vends a plurality of products each having a different combination of mixed products (i.e., a mixture of a plurality of products) based on an input signal. Such modification would have provided Bradbury as modified by Cahill with a dispensing system that dispenses multiple products, therefore, provide a greater choice of dispensing items to the customers.

In response to applicant's argument with respect to Hovakimian on Response page 12, lines 27+ that there is no illustration or teaching therein which would in any way reasonably suggest to combine a machine-readable code unique to an organization with a product label, and responsive to a filling of the labeled

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product container compensating the organization, the Examiner believes that the Applicant misinterprets the claim rejection. The examiner relied Hovakimian for the limitation lacked in Bradbury, i.e., the customer being a member of the organization and the step of generating a unique machine-readable code for the organization. Bradbury teaches the method of distributing merchandises (i.e., the empty container) having the label of a product 20 to the customer. The label of the product for merchandises having the unique machine-readable code 24 identifying the price of the merchandise with the product container. He teaches the steps of reading the machine-readable code, filling the labeled product container, and compensating the customer responsive to the reading step (i.e., paying only the refilled product and not cost of the container at the checkout process) (see col. 2, lines 49+ for example). And, Hovakimian discloses a method to provide an automatic contribution to a charity. The customer having a card to make a purchase transaction is a member of the charitable organization. The card is labeled to indicate a selected charity to receive a donation. When making a transaction, the system read the unique machine-readable code 16 from the card indicating a selected charity to receive a donation. Therefore, in Hovakimian's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate an automatic contribution method in the transaction operation by including an unique machine-readable code for the charitable organization on the label of the product container to the indicate a selected charity to receive a donation so that when the customer makes a transaction, a selected charitable organization would automatically receive a percentage of the transaction as a donation.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. I. Lee whose telephone number is 703-306-3427. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



D. I. Lee
Primary Examiner
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D.L.